

### REMARKS

Claims 35, 38, 41 and 42 have been amended to place them in better form for examination and to further obviate the 35 U.S.C. §§102, 103 and 112 rejections set forth in the Office Action dated March 11, 2004. Claims 39 and 40 have been canceled. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is requested.

The Examiner has rejected claims 38, 42 and 43 under 35 U.S.C. §112, second paragraph, because of the use of the term "gene." Applicant has amended claim 35. Applicant submits that the term "gene" is well known by persons of ordinary skill in the art. Further, Applicant submits that there is support for the use of the term "gene" in the specification. The Examiner's attention is directed to page 1, lines 24-32; page 2, lines 1-2; page 6, lines 6-11 and lines 15-21; and page 7, lines 3-22. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 42 because the "heat shock treatment" conditions are unclear. Applicant submits "heat shock treatment" for plants is well known by persons of ordinary skill in the art. Applicant submits heat shock conditions are described in the specification and directs the Examiner's attention to page 20, paragraphs [0050] and [0051]. Withdrawal of these rejections is respectfully requested.

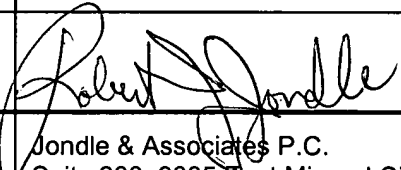
The Examiner has rejected claims 35-42 rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has amended claimed 35 and 42 to remove the terms "genetic element" and "genetic factor" and to replace them with "gene." Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 35, 38, 39 and 40 under 35 U.S.C. §102(e) as being anticipated by Hansen, G. (US Patent 6,162,965). Applicant has amended claim 35 to include a temperature of about 16 C to about 21 C. Applicant submits that

Hansen does not disclose or suggest using 16-21 degrees C temperature for co-cultivation with using Agrobacterium 1-2 days after rescue from glycerol stock, an antibiotic at 15-75 mcg/L and a plant growth medium comprising a compound selected from the given list. Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 35, 36, 37, 38, 39, 40 and 41 under 35 U.S.C. §103 over Hansen, G. (US Patent 6,162,965), Bhojwani, SS et al. (Developments in Crop Science, vol. 5, pp 24-41, 198), Holton (US Patent 5,948,955) and Applicant's admitted prior art for reasons of record. Claims 35 and 38-41 have been amended. Applicant submits that none of the references disclose or suggest the combination of using 15-21 degrees C temperature for co-cultivation with using Agrobacterium 1-2 days after rescue from glycerol stock, an antibiotic at 15-75 mcg/L and a plant growth medium comprising a compound selected from the given list. Applicant has also amended claim 35 as mentioned above. Accordingly, withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102, 103 and 112. Reconsideration of this application and early notice of allowance is requested.

<b>RESPECTFULLY SUBMITTED,</b>					
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